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SUBJECT: PRESIDENT TOLEDO BLASTS JUDICIARY'S HANDLING OF SENDERO LUMINOSO LEADERS' TRIAL

REF: LIMA 5163

¶11. (U) SUMMARY: President Toledo harshly criticized the judiciary's handling of the trial of Sendero Luminoso (SL) founder Abimael Guzman and other SL leaders in a national address 11/6, after Guzman and his co-defendants were permitted to disrupt the opening of their oral trial the previous day. The President vowed that no terrorists will be released while his government is in office, called for "summary" trials of terrorists, and announced the appointment of a new State Attorney (Procurador) for Terrorism who would seek to recuse the three judges presiding over the trial. The televised spectre of Guzman and his cronies reaffirming their terrorist actions and showing no remorse for the estimated 69,000 deaths resulting from SL's rebellion caused widespread public revulsion, and politicians from across the political spectrum quickly backed the President. While Toledo may have scored some political points, his intervention could well be seized on by the SL defendants as grounds for a future appeal to the Inter-American Court of Human Rights. END SUMMARY.

¶12. (U) The first of many retrials of Sendero Luminoso founder Abimael Guzman (Reftel) lasted half-an-hour before it was suspended after Guzman and four of the 18 defendants stood up and began chanting revolutionary slogans. Presiding judge Dante Terrel, President of the three-member "A" Antiterrorism Chamber, appeared to contribute to the chaos through his indecision, alternatively admitting then prohibiting television cameras and failing to ensure proper decorum in the courtroom. In the end, Terrel chose to suspend the session, with the next hearing scheduled for 11/12.

¶13. (U) President Toledo, in a television address on 11/6, promised an "iron fist" against SL, called for "summary" trials of SL terrorists, criticized the court for permitting Guzman to use the proceedings for propaganda purposes, announced that he would appoint a new State Attorney (Procurador) for Terrorism cases and that this official would seek to recuse the three-judge panel and would demand life sentences for the defendants. The President also declared that stricter security measures would be applied to the SL leaders in the Callao Navy Base prison, including the use of interview booths with security windows to prevent personal contact between the defendants and their attorneys/visitors. (Note: The previous Anti-Terrorism Procurador resigned several months ago. The interview booths were removed earlier this year after Guzman and other SL prisoners went on a hunger strike. Press articles over the past month claimed that Guzman has been running Shining Path remnants from his jail cell, facilitated by liberal visitation policies. There have been previous calls for Judge Terrel's recusal, based on his representation of terrorist defendants in the early 1990's. Foreign Ministry legal experts told Poloff on 11/8, that the GOP can move for the recusal of the entire three-judge panel, but that a final decision will be up to the judges themselves or to the Supreme Court. End Note).

¶14. (U) Media coverage of the opening session was sensationalized and public revulsion widespread at the sight of Guzman and his co-defendants publicly reaffirming their revolution and its bloody consequences. Most press commentary backed the President's criticism of the judiciary, although some debated whether his intervention constituted interference with the Judicial Branch. Pro-GOP and opposition politicians supported Toledo's announcements, although APRA leader Alan Garcia added that the President would leave a resurgent SL as a legacy.

¶15. (U) The GOP, on 11/8, announced the appointment of Guillermo Cabala, ex-director of Office of Control over Magistrates (OCMA), the Peruvian agency that investigates judicial misconduct, as the new Procurador for Terrorism in the Interior Ministry. Cabala is a respected jurist but critics have questioned whether, at 76 years of age, he might be a bit long in the tooth for such an important responsibility.

¶16. (U) Legal experts, such as former Foreign Minister Diego Garcia Sayan, have pointed out constitutional and procedural impediments to holding summary trials or recusing judges once a trial has begun. Cabala sought to soften Toledo's remarks

by saying they should be put in the context of the president's wish for a speedy and efficient trial. Cabala criticized the inexperience of Judge Terrel, questioned his impartiality, noting that Terrel represented terrorists in the past, and said he would pursue a legal way to have the judges recused.

16. (SBU) COMMENT: President Toledo notched up political points with his virulent denunciation of the judiciary's handling of the terrorism retrial and announcement of remedial measures. The outpouring of public revulsion at the SL leaders' antics demonstrates that public rejection of Peru's terrorist legacy remains strong. Toledo's intervention, however, could well be used by the defendants as evidence of improper Executive Branch interference with the Judicial Branch in any appeal to the Inter-American Court of Human Rights; Guzman's attorney has already stated to the press that he would appeal the court's decision to international courts. END COMMENT.

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